

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, MARCH 26, 2003**

PRESENT: Walter L. Alcorn, Commissioner At-Large
John R. Byers, Mount Vernon District
Frank de la Fe, Hunter Mill District
Joan M. DuBois, Dranesville District
Janet R. Hall, Mason District
Suzanne F. Harsel, Braddock District
John B. Kelso, Lee District
Ronald W. Koch, Sully District
Ilryong Moon, Commissioner At-Large
Peter F. Murphy, Jr., Springfield District
Linda Q. Smyth, Providence District
Laurie Frost Wilson, Commissioner At-Large

ABSENT: None

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The meeting was called to order at 8:20 p.m. by Chairman Peter F. Murphy, Jr., in the Board Auditorium of the Fairfax County Government Center at 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner de la Fe, citing the need to explore alternative locations, MOVED THAT WE DEFER THE DECISION ONLY ON 2232-H02-21, SPRINT PCS, INDEFINITELY.

Commissioner Hall seconded the motion which carried by a vote of 10-0-1 with Commissioner Kelso abstaining; Commissioner DuBois not present for the vote.

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Commissioner Wilson reminded the Commission that tomorrow night's meeting would consist of a workshop on the Zoning Ordinance Amendment relating to Outdoor Lighting Standards.

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Commissioner Alcorn announced that the Environment Committee would meet on Wednesday, April 2, 2003 at 7:00 p.m. to continue its discussion of the Chesapeake Bay Amendments.

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Commissioner Alcorn reported that on Monday, March 24, 2003, the Board of Supervisors had approved the Planning Commission's recommendations on the Subdivision Ordinance Amendment regarding illegal lots, including the suggestion that the matter be readvertised for a new public hearing, expanding the scope of the amendment.

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Commissioner Harsel called the Commission's attention to an invitation in their packets tonight from the Housing Authority to attend a meeting with representatives of the County's various revitalization groups at the Authority's headquarters on Wednesday, April 9, 2003. She added that a buffet was scheduled at 6:00 p.m. and the meeting at 7:00 p.m. Commissioner Harsel pointed out that the Commission would not be meeting that night and encouraged all Commissioners to attend.

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Chairman Murphy noted that the Parks Committee meeting, previously scheduled for Thursday, March 27, 2003, had been cancelled.

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ORDER OF THE AGENDA

Secretary Harsel set the following order for the agenda:

1. RZ-2002-HM-035 - COPPERMINE ASSOCIATES, LLC & DULLES TECH, LC
FDP-2002-HM-035 - COPPERMINE ASSOCIATES, LLC & DULLES TECH, LC
PCA-79-C-037-4 - DULLES TECH LC
2. SE-2002-MA-013 - ABDULELAH AL-KELIDDAR
3. SE-2002-MA-045 - ENTERPRISE LEASING COMPANY
4. RZ-2002-MV-037 - NATIONAL CAPITAL LAND & DEVELOPMENT, INC.
FDP-2002-MV-037 - NATIONAL CAPITAL LAND & DEVELOPMENT, INC.
5. PCA-84-D-049-5 - TYSONS II LAND COMPANY, LLC
FDPA-84-D-049-6 - TYSONS II LAND COMPANY, LLC

This order was accepted without objection.

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RZ-2002-HM-035/FDP-2002-HM-035 - COPPERMINE ASSOCIATES, LLC & DULLES TECH, LC - Appls. to rezone from PDC, C-3 and I-4 to PDH-12 to permit residential development at a density of 11.3 dwelling units per acre (du/ac) including bonus density for the provision of Affordable Dwelling Units (ADUs) and approval of the conceptual and final development plans. Located N. of Coppermine

Rd., and E. and W. of River Birch Rd. on approx. 56.31 ac. of land.
Comp. Plan Rec: 8-12 du/ac. Tax Map 15-4 ((1)) 10, 19, 20 and 35 and
16-3 ((1)) 32B. (Concurrent with PCA-79-C-037-4.) HUNTER MILL
DISTRICT.

PCA-79-C-037-4 - DULLES TECH LC - Appl. to amend the proffers
for RZ 79-C-037 to sever 27.50 ac. of land to permit residential
development associated with RZ/FDP 2002-HM-035. Located N. of
Coppermine Rd., E. and W. of River Birch Rd. on approx. 27.50 ac. of
land zoned I-4. Comp. Plan Rec: 8-12 du/ac. Tax Map 15-4 ((1)) 35
and 16-3 ((1)) 32B. (Concurrent with RZ/FDP 2002-HM-035.)
HUNTER MILL DISTRICT. JOINT PUBLIC HEARING.

Ms. Elizabeth Baker, a planner with Walsh, Colucci, Lubeley, Emrich and Terpak, reaffirmed the affidavit dated March 14, 2003. There were no disclosures by Commission members.

Mr. William Mayland, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of the application.

Mr. Mayland responded to questions from Commissioner Harsel regarding the electric power easement on site; the amount of open space to be provided, ownership of the proposed community park, why there were two options for Land Bay A, maintenance of the proposed stormwater management facility; the amount of buffering to be provided, and the width of the proposed private street.

Ms. Baker presented a brief land use history of the subject property. She noted that the applicant's proposal would replace approved plans for 1.5 million square feet of office use for residential development and was in accord with the Comprehensive Plan. She pointed out that the proffer package included 14.38 acres for a school site and 13.4 acres for park use that would be an extension of an existing stream valley, bringing the total amount of on-site public use to 48 percent. Ms. Baker explained that the applicant had worked with representatives of the adjacent church and agreed to convey a half-acre parcel for a multi-purpose court to be built at the applicant's expense. She said that a commitment for affordable dwelling units was also proffered, either in the form of units if multi-family use was developed in Land Bay A or a contribution to the Housing Trust Fund if townhouses were chosen. She noted that the applicant met several times with citizens in the area, including the Hunter Mill Land Use Committee, who supported the applications.

In response to questions from Commissioner Byers, Ms. Baker explained that the applicant would make a choice between the two options for Land Bay A based on market conditions at the time of development. She noted that two development plans had been prepared and both were attractive designs, met all applicable requirements and provided identical benefits. She added that optional development was not unprecedented.

In response to questions from Commissioner Smyth, Ms. Baker explained that a mixture of building materials would be used throughout the development. She noted that illustrative elevations had been submitted to staff and the Commission and that Proffer 13 addressed architectural design.

In response to further questions from Commissioner Smyth, Ms. Baker agreed to add disclosure clauses to Proffers 10 and 20 regarding maintenance of private streets and stormwater management facilities, respectively.

In response to questions from Commissioner Wilson, Ms. Baker explained that there were existing sidewalks on both sides of River Birch Road and that the applicant would construct improvements, to include curb, gutter and sidewalk, along the subject property's Coppermine Road frontage as outlined in Proffer 5.

In response to questions from Commissioner Wilson, Mr. Mayland stated that it would be best to amend the proffers to address the sidewalk issue rather than revise the development plan to simply show the sidewalks on River Birch Road. Ms. Baker agreed to such an amendment.

In response to a question from Commissioner Smyth, Ms. Baker stated that the units depicted in the townhouse proposal were a unique design combination of stacked and back-to-back, with one unit having access to the rear at the lower level.

In response to a question from Commissioner Harsel, Ms. Baker pointed out the exact location of the electric power easement.

Chairman Murphy called the first listed speaker and recited the rules for public testimony.

Ms. Donna Heath, 13502 Nickleback Court, Herndon, representing McNair Farms West, Sections 1 and 2, spoke in opposition to the applications. She cited density, traffic, and an oversupply of apartments in the area as her main concerns. She also questioned the notification process. (A copy of Ms. Heath's statement is in the date file.)

In response to a question from Chairman Murphy, Ms. Barbara Lippa, Executive Director of the Planning Commission, confirmed that all legal notification requirements had been met.

Ms. Heath responded to questions from Commissioner de la Fe regarding her position. She said she would prefer the original plan for office use, even when it was pointed out that offices would have a greater traffic impact than residential.

Rev. Ralph Duke, representing the Beacon Hill Missionary Baptist Church, 2472 Centreville Road, Herndon, spoke in favor of the applications. He noted that the applicant had worked with the church and resolved their concerns.

There were no other speakers; therefore, Chairman Murphy called upon Ms. Baker for a rebuttal statement.

Ms. Baker assured the Commission that the applicant had sent out all the required legal notifications. She noted that the traffic impact of the proposed residential use was only one-third of that projected for office use.

In response to a question from Commissioner Murphy, Ms. Baker confirmed that the applicant would meet the requirements of the Affordable Dwelling Unit Ordinance.

Commissioner de la Fe asked Ms. Baker if the applicant would be willing to return the site plan to the Planning Commission for review after a decision was made regarding the unit type on Land Bay A. Ms. Baker concurred and Chairman Murphy suggested that, procedurally, the best way to proceed would be for Commissioner de la Fe to make a motion to recommend to the Board of Supervisors that it direct the applicant to bring the site plan back to the Commission.

In response to questions from Commissioner Smyth, Ms. Baker stated that the Stormwater Planning Division of the Department of Public Works and Environmental Services had reviewed and granted the applicant's request for an exception to the provisions of the Chesapeake Bay Preservation Ordinance regarding the resource protection area on Land Bay B.

In response to a request from Commissioner Wilson to expand the proffer regarding temporary signs to include rental signs, Ms. Baker replied that the applicant would comply with all of the regulations of the Sign Ordinance.

There were no further comments or questions from the Commission and Mr. Mayland had no closing staff remarks, therefore Chairman Murphy closed the public hearing and recognized Commissioner de la Fe for action on this application. (A verbatim transcript is in the date file.)

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Commissioner de la Fe MOVED THAT WE DEFER DECISION ON THESE CASES UNTIL TOMORROW NIGHT (MARCH 27, 2003).

Commissioner Hall seconded the motion which carried unanimously.

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SE-2002-MA-013 - ABDULELAH AL-KELIDDAR - Appl. under Sects. 4-504, 7-607 and 9-610 of the Zoning Ordinance to permit a service station/mini-mart and a waiver of the minimum lot size in a Highway Corridor Overlay District. Located at 6401 Columbia Pike on approx. 32,696 sq. ft. of land zoned C-5 and HC. Tax Map 61-3 ((3)) 1. MASON DISTRICT. PUBLIC HEARING.

William Barnes Lawson, Esquire, with Lawson and Frank, reaffirmed the affidavit dated November 21, 2002. There were no disclosures by Commission members.

Ms. Denice Thomas, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended denial of the application due to outstanding transportation and environmental issues.

Mr. Lawson listed the following changes to the application made at the request of staff and citizens in the area:

- the mini-mart had been reduced in size from 900 square to 230 square feet;
- the dumpsters had been moved to the rear of the site and would be screened;
- the customer parking area had been relocated to the front;
- the handicap access had been provided; and
- the appropriate barriers and buffers had been provided.

He noted that, while a quorum was not present, those present at the Mason District Land Use Committee meeting last night had voted to support the application. He added that the Barcroft Square Homeowners Association had also expressed their support. Regarding the transportation issue, Mr. Lawson said that closure of the curb cuts as requested by staff would render the site unusable due to the unique topography of the area. He noted that it had been demonstrated by the applicant that there would be no increase in traffic generated by the proposed changes and maintained therefore that there was no need to change the existing vehicle circulation pattern. He requested that the development conditions be revised to indicate that there would be five employees rather than two; that the phrase "unless waived by DPWES" be added to Condition 8; deletion of Conditions 13 and 14 concerning closure of the curb cuts; and that Condition 15 requiring a Phase I Environmental Study also be deleted. Mr. Lawson explained that the gas tanks had been replaced by the previous owner and that the applicant had a contract with an environmental waste company to dispose of hazardous waste. He submitted a list of five additional conditions agreed to by the applicant at the request of Barcroft Square, a copy of

which is in the date file. He explained that the conditions including restrictions on parking; prohibition of alcohol sales; trash pick up and preservation of mature trees on the western property line.

In response to questions from Commissioner Murphy, Ms. Thomas stated that the applicant had not provided sufficient evidence to staff of the tank replacement. Mr. Lawson countered that the applicant had submitted building permits that were approved by the County when the tanks were replaced. He added that a nearby resident had stated at a Mason District Land Use Committee meeting that he had personally witnessed the tanks being replaced. Commissioner Hall said she did not recall hearing that statement. Mr. Lawson said it might have taken place at a Planning Commission meeting. Again, Commissioner Hall said she didn't remember such testimony. She further commented that one of the major problems with this application was the fact that it appeared to be a "moving target." She pointed out that Mr. Lawson had claimed to have the support of the Barcroft Square citizens at a previous public hearing only to have a representative of that group appear later and dispute the claim. In response to a question from Commissioner Hall, Mr. Lawson said he did not have anything in writing from Barcroft Square. He said that Mr. Jim Ketcham, representing Barcroft Square, had verbally expressed his support at the Mason District Land Use Committee meeting last night. Commissioner Alcorn commented, and Commissioner Koch concurred, that Mr. Ketcham was a representative of the Western Fairfax County Citizens Association in Sully District. Mr. Lawson said he could be mistaken about the gentleman's name since he did not have his notes with him.

Commissioner Wilson commented that a letter or certificate of approval should have been issued by the State Department of Environmental Quality confirming the tank replacement. Commissioner Hall said it was her understanding that staff did not dispute the fact that the tanks were replaced, but wished to ensure complete documentation.

Commissioner Alcorn noted that information on the hazardous waste disposal service had been provided by the applicant, but that further details such as the location of accumulation areas were needed.

In response to questions from Commissioner Kelso, Ms. Thomas explained that staff had requested that the applicant consolidate the two access points on the north. Mr. Lawson stated that the problem with that solution was that the curb cut on Old Columbia Pike was very steep and a large gasoline delivery truck could not exit at that point.

Ms. Thomas and Mr. Lawson responded to further questions from Commissioner Wilson regarding the size of the mini-mart.

Chairman Murphy called for speakers from the audience, but received no response. He noted that no rebuttal was necessary.

In response to questions from Commissioner Hall, Mr. Lawson acknowledged that there were outstanding Zoning Ordinance violations regarding on-site vehicle storage and signs. He added that the applicant was working on clearing up those issues.

There were no further comments or questions from the Commission or closing staff remarks, therefore Chairman Murphy closed the public hearing and recognized Commissioner Hall for action on this application. (A verbatim excerpt is in the date file.)

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Commissioner Hall MOVED THAT THE PLANNING COMMISSION RECOMMEND DENIAL OF SE-2002-MA-013 TO THE BOARD OF SUPERVISORS.

Commissioner Byers seconded the motion which carried unanimously.

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SE-2002-MA-045 - ENTERPRISE LEASING COMPANY - Appl.
under Sects. 4-604 and 9-622 of the Zoning Ordinance to permit a
vehicle rental establishment and modifications/waivers in a CRD.
Located at 7000 – 7060 Columbia Pi. on approx. 5.30 ac. of land
zoned C-6, HC, SC and CRD. Tax Map 60-3 ((1)) 21, 21A and 21B.
MASON DISTRICT. PUBLIC HEARING.

John McGranahan, Esquire, with Hunton and Williams, reaffirmed the affidavit dated February 20, 2003.

Commissioner Moon recused himself from participation in this case and left the auditorium.

Ms. Kristen Shields, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the application.

Mr. McGranahan explained that the applicant had agreed to provide parking lot improvements that would add 37 parking spaces at the shopping center and would not open its business until those improvements were completed. He added that Enterprise vehicles awaiting rental and employee vehicles would be parked behind the buildings. He noted that the business would close at 6:00 p.m.

In response to a question from Commissioner Hall, Mr. McGranahan confirmed that the subject property was within the Baileys Crossroads Revitalization Area.

In response to a question from Commissioner Harsel, Mr. McGranahan assured her that the Enterprise parking spaces would be clearly marked.

In response to a comment by Commissioner Hall, Mr. McGranahan confirmed that the majority of Enterprise customers were picked up at their homes and therefore would not be using the parking lot for their own vehicles.

In response to questions from Commissioner Byers, Mr. McGranahan explained that there would be a maximum of four employees at the business at one time. He added that Condition 14 would be modified to indicate that cleaning of vehicles would definitely take place behind the center, but not in the designated parking spaces because of the lack of electrical outlets at that location.

Chairman Murphy called the only listed speaker for this application.

Mr. David Huddleston, 7415 Annanwood Court, Annandale, representing the Broyhill Crest Citizens Association, spoke in opposition to the application. He maintained that the applicant's intention to add 37 spaces was remedial in nature and did not justify the car rental use. (A copy of Mr. Huddleston's statement is in the date file.

There were no further speakers; therefore, Chairman Murphy called on Mr. McGranahan for a rebuttal statement.

Mr. McGranahan noted that the applicant's proposal would have less traffic impact than many by-right uses and that the additional 37 parking spaces would improve the existing parking situation.

Mr. McGranahan responded to further questions from Commissioners Smyth, Hall and Wilson regarding the parking situation. While noting that the text of the proffers would govern, he agreed to Commissioner Wilson's request that the notes on the development plan be revised to conform to the proffers.

There were no further comments or questions from the Commission and Ms. Shields had no closing staff remarks, therefore Chairman Murphy closed the public hearing and recognized Commissioner Hall for action on this application. (A verbatim transcript is in the date file.)

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Commissioner Hall MOVED THAT WE DEFER DECISION ON SE-2002-MA-045 TO A DATE CERTAIN OF APRIL 2, 2003, WITH THE RECORD TO REMAIN OPEN FOR COMMENT.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Alcorn, Moon and Kelso not present for the vote.

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RZ/FDP-2002-MV-037 - NATIONAL CAPITAL LAND AND DEVELOPMENT - Appls. to rezone from R-1 to PDH-5 to permit residential development at a density of 4.92 dwelling units per acre (du/ac) and approval of the conceptual and final development plans. Located on the W. side of Pohick Rd., approx. 200 ft. N. of Waldren Dr. on approx. 5.69 ac. of land. Comp. Plan Rec: 5-8 du/ac. Tax Map 107-2 ((1)) 11; 108-1 ((1)) 43 and 45A. MT. VERNON DISTRICT. PUBLIC HEARING.

Frank Stearns, Esquire, with Venable, Baetjer and Howard, reaffirmed the affidavit dated March 4, 2003. There were no disclosures by Commission members.

Ms. Cathy Belgin, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended denial of the application due to outstanding issues regarding site design, stormwater management, transportation, tree save and consolidation.

Mr. Stearns explained that the major disagreement between staff and the applicant was site design. He did not understand why staff was requesting a donation for improvements to Lorton Road which was approximately two miles away from the subject property, but noted that the subject was still under discussion. He elaborated on the applicant's efforts to inform the community of its plans, noting several visits to meetings of the Federation of Lorton Communities (FOLC) and the lack of response from a letter sent to Washington Square representatives. He added that KSI, developer of the adjacent Lorton Station community, had agreed to accept the new homes into its homeowners association and stated that the applicant would continue to work with citizens in the area to address their concerns. Mr. Stearns spoke about the applicant's efforts to acquire the parcels to the west, explaining that the proposed design would allow future incorporation of those parcels. He maintained that adequate parking, open space, and compatible lot sizes were planned, resulting in 4.9 dwelling units per acre, a density below the recommended Comprehensive Plan range. Mr. Stearns commented on the tree save issue, noting the sparseness of existing trees. In conclusion, he reiterated that the applicant was still working with staff on several outstanding issues and requested a deferral to allow time for resolution.

At Mr. Stearn's request, Mr. Gary Garczynski, President of National Capital Land and Development, listed his company's credentials and spoke about the five concepts of "smart growth." He claimed that this application met those five concepts and disagreed with staff's subjective dismissal of the proposed design.

Mr. Stearns and Mr. Ken Kidder, engineer for the applicant, responded to questions from Commissioner Harsel regarding the proposed side yard widths, stormwater management facilities and topography of the site.

Mr. Stearns responded to questions from Commissioner Wilson regarding the side yards, easements and proposed covenants.

In response to questions from Commissioner Byers, Mr. Stearns said he was told by a staff member in Supervisor Gerry Hyland's office that the Federation of Lorton Communities was the appropriate citizens group to review the proposal and therefore the applicant had not made presentations to the Mount Vernon Council of Citizens Associations. Commissioner Byers said it was his policy to require all Mount Vernon applicants to make presentations to the Council and suggested that Mr. Stearns contact Diane Donley, the Chairman of the Council's Planning and Zoning Committee.

Chairman Murphy called the first listed speaker.

Mr. Richard Hunter, 7716 Wolford Way, Lorton, representing the Washington Square Homeowners Association, said that the applicant's representative had not made an effort to contact Washington Square residents. He stressed the importance of maintaining a substantial wooded buffer, controlling stormwater runoff and realigning Baker Drive, the main entrance. (A copy of Mr. Hunter's statement is in the date file.)

Mr. Steve Fortunato, 7702 Wolford Way, Lorton, concurred with Mr. Hunter's concerns, especially retention of the wooded buffer area.

Mr. Anthony Bennett, 7722 Wolford Way, Lorton, commented that a lot of people in his neighborhood were unaware of the applicant's proposal. He expressed his willingness to work with the applicant to address outstanding issues.

Ms. Martina Stewart, 7619 Buckman Place, Lorton, concurred with the staff's recommendation for denial. She said the density was too high and the additional noise and lights would have an adverse impact on her community.

Ms. Kathryn Poling, 7663 Graysons Mill Lane, Lorton, agreed with staff that the proposed layout promoted the feeling of overcrowding and was not compatible with adjacent communities. She added that fewer homes and more trees would result in a better design.

Ms. Poling responded to questions from Commissioner Wilson regarding her position.

There being no further speakers, Chairman Murphy called upon Mr. Stearns for a rebuttal.

Mr. Stearns explained that the buffer area referred to by Messrs. Hunter and Fortunato was not on the subject property and therefore would not be disturbed. He said he would explore the possibility of providing pedestrian access for the residents of Washington Square to Lorton Station facilities. He added that it was the applicant's intent to request that the new homes be

incorporated into the Lorton Station Homeowners Association. He discussed the fence between the subject property and Washington Square and commented on his meeting with Mr. Greg Schuckman, President of the Lorton Station Civic Association. He expressed his willingness to continue working with citizens in the area to resolve their concerns.

Mr. Stearns responded to questions from Commissioner Smyth regarding the tree save proposed, the distance between units, additions such as chimneys or bay windows, private streets, and disclosure clauses regarding maintenance.

Ms. Belgin clarified that the rear yards were shown to be between 15 and 20 feet, which would include any decks added. She maintained that the tree save shown on the development plan was fragmented and should be larger and more contiguous. She confirmed that staff was still working with the applicant on outstanding transportation issues.

There being no further comments or questions from staff or the Commission, Chairman Murphy closed the public hearing and recognized Commissioner Byers for action on this application. (A verbatim transcript is in the date file.)

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Commissioner Byers MOVED THAT WE DEFER THE DECISION ONLY ON RZ/FDP-2002-MV-037 TO A DATE CERTAIN OF APRIL 24, 2003 WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENT.

Commissioner Wilson seconded the motion which carried unanimously with Commissioners Hall and DuBois not present for the vote.

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(The Commission went into recess at 11:10 p.m. and reconvened in the Board Auditorium at 11:30 p.m.)

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PCA-84-D-049-5 AND FDPA-84-D-049-6 - TYSONS II LAND COMPANY LLC - Appls. to amend the proffers and conceptual and final development plans for RZ-84-D-049 to permit mixed use development at an overall Floor Area Ratio (FAR) of 1.45. Located N. of Chain Bridge Rd. and E. of International Dr. on approx. 57.44 ac. of land zoned PDC, HC and SC. Comp. Plan Rec: Mixed use. Tax Map 29-4 ((10)) B, 2A1, 2A2, 2C, 2D, 3A, 3B, 3C, 3D, 4A, 4B, 5A, 5B, 5C and 6. PROVIDENCE DISTRICT. PUBLIC HEARING.

Benjamin Tompkins, Esquire, with Reed, Smith, LLP, reaffirmed the affidavit dated January 30, 2003. There were no disclosures by Commission members.

Mr. Peter Braham, Zoning Evaluation Division, Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended denial of the application due to the outstanding transportation and design issues detailed in the staff report.

In response to questions from Commissioners Koch and de la Fe, Mr. Braham stated that there had been no requirement for architectural review associated with the original rezoning of the subject property in 1985. He added that the current Comprehensive Plan stressed design more frequently and that generally the Planning Commission was the body suggested to review design. Commissioner Koch commented that he would be more comfortable with professional architects reviewing proposed designs.

In response to further questions from Commissioner Koch, Mr. Braham said that staff had not seen the applicant's latest version of the proffers and therefore could not comment on how much improvement they represented. He added that there were certain aspects of the application that could be considered to be in conformance with the Comprehensive Plan, but reiterated that some transportation and design issues remained outstanding.

Commissioners DuBois, Alcorn, Koch, and Smyth discussed with staff the proper manner to ensure appropriate architectural review.

Mr. Tompkins introduced the members of the applicant's development team present this evening:

- Mr. Peter Rosen and Mr. Bob Tanenbaum, with Tysons II and Lerner Enterprises;
- Grayson Hanes, Esquire, with Reed, Smith LLP;
- Mr. Phil Yates, with Dewberry and Davis; and
- Ms. Robin Antonucci, with Wells and Associates.

He noted that the applicant had been involved in the development of Tysons II since the 1960s and during that time had participated in development of the million square foot Tysons Galleria, the 350,000 square foot Ritz-Carlton, the 300,000 square foot residential Lillian Court Condominiums and three Class A office buildings comprising approximately one million square feet. He added that the applicant owned all of the remaining vacant land at Tysons II which was currently approved for eight additional office buildings with a total of 2.3 million square feet. He noted that discussions of whether to proceed with a public/private partnership for rail-based development began in 1999 and that, having received encouragement, the applicant submitted these applications in November of 2001. He stated that this raised the issue of the applicability of the new residential development criteria. Also as a result of the encouragement, he said that the applicant had become a founding member of the Landowners Economic Alliance for Dulles Extension of Rail, a group whose stated goal is to facilitate the creation of a special tax district to

bring rail to Tysons and the Dulles Corridor. Mr. Tompkins explained that a significant residential component was included in the current proposal at the suggestion of staff, despite misgivings by the applicant about the economic viability of such a component. He spoke about the measures taken at staff's insistence to validate rail-related density, noting that even if these applications were approved, the increased density and the proffers associated with it would not go into effect unless a full funding grant agreement was in place by January 1, 2005. He said the applications proposed an increase in the floor area ratio (FAR) from 1.0 to approximately 1.4 and were in conformance with the Comprehensive Plan. He added that, even with an aggressive construction schedule, the project would not exceed its current by-right density until sometime after 2017, thereby allowing adequate time for rail to be funded and constructed. Mr. Tompkins listed the following benefits of these applications:

- 4.5 acres dedicated to the County for a Metro facility which could be used as a credit toward the County's local share when applying for Federal funding, a value of approximately \$10 million;
- land use intensity to provide ridership to support mass transit and demonstrate to Federal officials that the necessary land use plans and intensity were in place to justify Federal funding;
- \$5 million for the construction of additional through lanes on Route 123;
- \$2 million for additional transportation improvements beyond Route 123;
- an extensive pedestrian network, including a pedestrian bridge to connect West*Park, at a cost of approximate \$500,000;
- a transportation demand management (TDM) program where none previously existed;
- approximately \$19 million in annual real estate tax revenue;
- approximately \$3.1 million of tax district benefits;
- a 5-acre elaborately landscaped public park and amphitheatre for outdoor performances, with a cost, exclusive of land, of approximately \$2 million, with a \$100,000 contribution for maintenance;
- a \$450,000 contribution for affordable dwelling units;
- a \$400,000 contribution for schools;
- \$60,000 for installation of sculpture and other outdoor art in the three major plazas; and
- a free roof-top lease for antenna and transmitter facilities for the County's Emergency Services for 35 years.

Mr. Tompkins said the applicant had taken every opportunity to engage the community and had letters of support from the Pimmit Hills Citizens Association, the McLean Citizens Association (MCA), the Fairfax County Chamber of Commerce, the Tysons Galleria, the owner of the Ritz-Carlton, and the former chairman of the Tysons Corner Task Force. In conclusion, he stated the applications represented the vision and proffered commitments to have Tysons II developed as a transit-oriented urban center of Fairfax County and regretted that negotiations with staff had not resulted in a favorable recommendation. He noted that the applicant's intent to develop the property by right if these applications were denied would result in a lost opportunity for Fairfax County and all those who supported the extension of rail transit in this area.

Commissioner Koch commented that the letter of support from MCA suggested that pedestrian bridges be mandatory, not optional as suggested by the applicant. Mr. Tompkins explained that the pedestrian bridges were a concept introduced by the applicant's architect and were not integral to the plans since an existing pedestrian network on the ground was provided.

In response to questions from Commissioner Smyth, Mr. Tompkins confirmed that the tax benefits quoted were estimated.

Commissioner Harsel commented that she had recently discovered that commercial property taxes were based on rental income, and that commercial tax revenue had decreased in the past year while residential taxes had soared. Mr. Tompkins claimed that the Tysons area traditionally had a very low vacancy rate and noted that the applicant paid significant property taxes on undeveloped land.

Mr. Tompkins responded to questions from Commissioner Smyth regarding proposed traffic improvements, park development, pedestrian bridges, rooftop telecommunications lease, ownership changes, land dedication, boundaries, tax assessments on the subject property and the value of land in Tysons Corner generally, TDMs, and parking.

Mr. Braham and Mr. Tompkins responded to questions from Commissioner Wilson regarding lighting and the pedestrian bridges.

Mr. Tompkins responded to questions from Commissioner Alcorn regarding the proposed improvements along the property's Route 123 frontage.

In response to an inquiry from Commissioner Smyth, Mr. Michael Davis, Department of Transportation, explained why staff did not feel that the applicant met the transportation development criteria.

Mr. Davis and Ms. Barbara Byron, Director, Zoning Evaluation Division, DPZ, responded to questions from Commissioner Dubois regarding road funding in Tysons Corner.

There being no further comments or questions from the Commission at this time, Chairman Murphy called the first listed speaker.

Mr. William Byrnes, 7921 Old Falls Road, McLean, spoke in opposition to the applications. He said rail density should not be granted until rail was closer to reality. (A copy of Mr. Byrnes' statement is in the date file.)

Mr. Jack Herrity, 10355 Democracy Lane, Fairfax, commented on equity. He noted that West*Group had recently submitted an application for a significant number of residential units in Tysons Corner and had not been asked to proffer the amount of transportation improvements being requested from the applicant. He suggested that the first step needed was to create an

overall plan for transportation improvements in Tysons Corner and then establish a fund to pay for those improvements. (A verbatim transcript of Mr. Herrity's testimony, prepared at his own request, is in the date file.)

In response to questions from Commissioner Smyth, Ms. Byron confirmed, and Ms. Rodeheaver agreed, that West*Group did not contribute to a road fund during the processing of its most recent application because it had contributed significantly for transportation improvements with previous applications.

Mr. Clark Tyler, 7327 Eldorado Street, McLean, representing the Hallcrest Heights Homeowners Association, was opposed to the applications. He concurred with Mr. Byrnes that rail density should not be granted until rail development was assured. (A copy of Mr. Tyler's statement is in the date file.)

Ms. Patty Nicoson, representing the Dulles Corridor Rail Association, 11800 Sunrise Valley Drive, Reston, supported the applications. She said the extension of rail to Dulles was very much on track, with Tysons expected in 2006 and Dulles in 2010. She expressed hope that the differences between staff and the applicant could be amicably resolved.

Ms. Adrienne Whyte, 6704 West Falls Way, Falls Church, representing the McLean Citizens Association (MCA), spoke in support of the applications. She commented on the benefits of the proffer package and suggested that the pedestrian bridges be a proffered improvement rather than an option. (A copy of MCA's resolution is in the date file.)

In response to questions from Commissioner Smyth, Mr. Davis stated that the current funding proposal addressed rail development as far as slightly west of Tysons Corner and that extension beyond that was still in the discussion phase.

Mr. Sterling Wheeler, Plan Development Branch, DPZ, responded to questions from Commissioner Alcorn regarding the references to rail transit in the Comprehensive Plan.

Commissioner Kelso commented on the proposed designs, noting that the architectural firm of Kohn Pedersen Fox Associates was held in high regard in the industry. He agreed that the pedestrian bridges were integral to the overall design and suggested that this was a good project that still needed a little work.

There were no additional speakers; therefore, Chairman Murphy called upon Mr. Tompkins for a rebuttal statement.

Mr. Tompkins assured the Commission that the applicant would be happy to meet with interested citizens to discuss the timing and phasing of the proposed project. He reiterated that the project would not go forward if a funding agreement was not in place by January 1, 2005, and additional density would not be added until the latter stages. He noted that the Tysons Corner recommendations in the Comprehensive Plan referenced only one rail station.

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Commissioner Koch commented on the high quality of the proposed development and expressed the hope that the applicant and staff could find common ground to move this project forward.

Commissioner DuBois commented that a lot of benefits to the County would be lost if this project was denied and agreed with Commissioners Koch and Kelso in hoping differences could be resolved.

In response to questions from Commissioner Harsel, Mr. Tompkins explained why the applicant was reluctant to commit funds without assurances from the County.

In response to a question from Commissioner de la Fe, Mr. Tompkins stated that the 2017 date referred to was simply an estimate by the applicant for when development on the subject property was expected to be complete.

There were no further comments or questions from the Commission and staff had no closing remarks, therefore Chairman Murphy closed the public hearing and recognized Commissioner Smyth for action on these applications. (A verbatim transcript is in the date file.)

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Commissioner Smyth MOVED THAT WE DEFER DECISION ONLY ON THESE CASES TO THURSDAY, MARCH 27, 2003.

Commissioner Alcorn seconded the motion which carried unanimously with Commissioners Byers and Hall not present for the vote.

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The meeting was adjourned at 1:40 a.m.
Peter F. Murphy, Jr., Chairman
Suzanne F. Harsel, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Gloria L. Watkins

Approved on: March 17, 2005

Linda B. Rodeffer, Clerk to the
Fairfax County Planning Commission